

ASSEMBLY BILL

No. 1082

Introduced by Assembly Member Ruskin

February 22, 2005

An act to add Article 11 (commencing with Section 905) to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1082, as introduced, Ruskin. Telecommunications: consumer protection.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Pursuant to existing law, the commission adopted a general order applicable to all commission-regulated telecommunications utilities known as the telecommunications consumers' Bill of Rights.

This bill would state the intent of the Legislature to establish consumer protections that are at a minimum, as protective as those originally adopted by the commission in the telecommunication consumers' Bill of Rights and to establish additional protections for the right of privacy of consumers. The bill would require that the commission, by July 1, 2006, develop and enforce consumer protection rules for telecommunications service, including mobile telephony services, as defined, that achieve certain policies and meet specified requirements. The bill would additionally require that the commission, by July 1, 2006, develop and enforce consumer protection rules for charges for non-communications services on telephone corporation billings, that meet specified requirements.

Under existing law, a violation of the Public Utilities Act or an order or decision of the commission is a crime.

Certain provisions of this bill would be part of the act and an order or other action of the commission would be required to implement certain of the provisions. Because a violation of the bill's provisions or of an order or decision of the commission implementing those provisions would be a crime, this bill would impose a state-mandated local program by creating new crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 11 (commencing with Section 905) is
2 added to Chapter 4 of Part 1 of Division 1 of the Public Utilities
3 Code, to read:

4
5 Article 11. Telecommunications Bill of Rights
6

7 905. (a) It is the intent of the Legislature to establish
8 consumer protections that are at a minimum, as protective as
9 those adopted by the commission in Decision 04-05-057.

10 (b) For purposes of this section, "mobile telephony services"
11 means commercially available interconnected mobile phone
12 services that provide access to the public switched telephone
13 network (PSTN) via mobile communication devices employing
14 radiowave technology to transmit calls, including cellular
15 radiotelephone, broadband Personal Communications Services
16 (PCS), and digital Specialized Mobile Radio (SMR). "Mobile
17 telephony services" does not include mobile satellite services or
18 mobile data services used exclusively for the delivery of
19 nonvoice information to a mobile device.

20 (c) The commission shall, by July 1, 2006, develop and
21 enforce consumer protection rules for telecommunications
22 service, including mobile telephony services, that achieve all of
23 the following policies:

1 (1) A consumer has a right to receive clear and complete
2 information about rates, terms, and conditions for available
3 products and services, and to be charged only according to the
4 rates, terms, and conditions the consumer has agreed to.

5 (2) A consumer has a right to select services and vendors, and
6 to have the consumer's choices respected by telecommunications
7 service providers.

8 (3) A consumer has a right to personal privacy, to have
9 protection from unauthorized use of the consumer's records and
10 personal information, and to reject intrusive communications and
11 technology.

12 (4) A consumer has a right to participate in public policy
13 proceedings, to be informed of his or her rights and what
14 agencies enforce those rights, and to have effective recourse if
15 his or her rights are violated.

16 (5) A consumer has a right to accurate and understandable
17 bills for products and services authorized by the consumer, and to
18 fair, prompt, and courteous redress for problems the consumer
19 encounters.

20 (6) A consumer has the right to be treated equally to all other
21 similarly-situated consumers, free of prejudice or disadvantage.

22 (7) A consumer has a right to safety and security of person and
23 property.

24 (d) The rules adopted by the commission pursuant to
25 subdivision (c) shall include all of the following requirements:

26 (1) A telephone corporation shall disclose its rates, terms, and
27 conditions of service and, upon request, provide its customers
28 with a complete explanation of the charges comprising the
29 customer's bill.

30 (2) A telephone corporation shall make no statement about
31 rates and services that is deceptive, untrue, or misleading.

32 (3) A telephone corporations shall provide customers with
33 written confirmation of every order for service and a written
34 copy of each contract between the telephone corporation and the
35 customer. A customer may cancel without termination fees or
36 penalties, any new service or contract for service within 30 days
37 after the new service is initiated.

38 (4) Every advertisement of the price, rate, or unit value of a
39 prepaid calling card or prepaid calling service shall include a
40 disclosure of any geographic limitation on the advertised price,

1 any minimum charges, any expiration policies, and any relevant
2 fees or surcharges. If any language other than English is used in
3 the advertising or promotion of the prepaid calling card or
4 prepaid calling service the disclosure shall be in that language.

5 (5) A telephone corporation may not require a deposit to
6 establish or re-establish service unless a customer is unable to
7 demonstrate acceptable credit. No deposit imposed by a
8 telephone corporation may exceed twice the estimated monthly
9 bill for basic service. Every deposit shall be refunded after one
10 continuous year of timely payments for basic service by the
11 customer, and not later than 30 days after basic service is
12 discontinued.

13 (6) Every telephone corporation billing statement shall be
14 clearly organized and may only contain charges for products and
15 services which have been authorized by the customer. All
16 mandated government taxes, surcharges, and fees required to be
17 collected from customers and to be remitted to federal, state, or
18 local governments shall be separately listed and identified as
19 “government fees and taxes”. This section of the billing shall not
20 include any charges for which the company is not required to
21 remit the moneys to the government.

22 (7) A telephone corporation shall credit payments effective the
23 business day payments are received by the telephone corporation
24 or its agent. No billing shall include any previously unbilled
25 charge for intrastate service furnished more than three months
26 immediately preceding the date of the billing, except that the
27 billing may include roaming charges for mobile telephony
28 services on a system other than the subscriber’s home system for
29 up to four months immediately preceding the date of the billing,
30 and the billing may include charges for collect, third-party, and
31 calling card calls for up to the five months immediately
32 preceding the date of the billing. Telephone corporations shall
33 prorate charges for basic service for partial months. Billings must
34 be based on the rates in effect at the time the service was used.

35 (8) A telephone corporation shall provide reasonable notice to
36 all affected customers of every proposed change in the
37 customer’s service agreement or any contract change that may
38 result in higher rates or charges or more restrictive terms or
39 conditions and any service agreement or contract change may not
40 be implemented without the express consent of the customer.

1 (9) A telephone corporations shall provide written notice to
2 any customer whose payments are overdue not less than 7
3 calendar days prior to terminating service for non-payment. Basic
4 exchange service may not be disconnected on any day that
5 telephone corporation representatives are not available to assist
6 customers.

7 (10) A telephone corporation shall investigate a customer
8 billing dispute and reach a determination and communicate that
9 determination to the customer within 30 days. During the
10 investigation of the customer billing dispute, no late charge or
11 penalty may be collected from the customer, the charge in
12 dispute may not be sent to collection, and no adverse credit
13 report may be filed as to the customer. Disputes shall be resolved
14 pursuant to California law and the forum for adjudication of
15 disputes shall be the county in California in which the customer
16 receives the billing or the customer's primary place of use of the
17 service.

18 (11) A telephone corporation shall designate one or more
19 representatives to be available during regular business hours to
20 accept Consumer Affairs Branch inquiries from the commission.
21 The telephone corporation shall provide all documents and
22 information requested by the branch.

23 (12) A telephone corporation shall issue an identification card
24 to every employee who has occasion to enter the premises of
25 customers on behalf of the telephone corporation. No telephone
26 corporation shall misrepresent, or allow its employees to
27 misrepresent, its association or affiliation with the corporation
28 when soliciting or implementing the customer's agreement to
29 purchase products or services.

30 (13) A telephone corporation shall provide every residential
31 customer, and every mobile telephony handset that is
32 technologically compatible with its system, with access to the
33 9-1-1 emergency dialing system regardless of whether an account
34 has been established.

35 (e) The commission shall, by July 1, 2006, develop and
36 enforce consumer protection rules for charges for
37 non-communications services on telephone corporation billings,
38 that include all of the following:

39 (1) A telephone corporation billing may not contain
40 non-communications related charges unless the telephone

1 corporation obtains the express written authorization of the
2 customer and the telephone corporation uses a Personal
3 Identification Number (PIN) or other equally reliable security
4 procedure approved by the commission, that is designed to
5 prevent persons or entities other than the customer and
6 individuals authorized by the customer, from placing charges.

7 (2) A telephone corporation shall take reasonable precautions
8 to screen vendors and billing agents before agreeing to provide
9 billing services for non-communications related charges by the
10 vendor or billing agent, in order to screen out unreliable or
11 untrustworthy business entities.

12 (3) A telephone corporation shall not disconnect basic
13 telephone service for nonpayment of non-communications
14 related charges.

15 (4) A telephone corporation shall separately identify all
16 non-communications related charges on every billing, with clear
17 and concise descriptions of the product or service for which a
18 charge has been imposed.

19 906. (a) It is the intent of the Legislature to establish
20 additional protections for the right of privacy of consumers.
21 Consumer information that is protected by the right of privacy is
22 that information collected or developed by a carrier solely by
23 virtue of the relationship with the consumer to which the
24 consumer has a reasonable expectation of privacy, including:

25 (1) Information about the consumer collected directly from the
26 consumer or from another source, including the consumer's social
27 security number, credit history, and personal financial
28 information.

29 (2) Information about the consumer derived from the provision
30 of service to the consumer, including the consumer's calling
31 patterns, types of calls, destinations of calls, amount of usage,
32 services subscribed to by the consumer, and other information
33 derived from telephone billings.

34 (3) The consumer's name, telephone number, and address, for
35 those consumers requesting that this information be withheld
36 from a printed or electronic directory. Published subscriber list
37 information is not protected by the right of privacy.

38 (b) The commission shall, by July 1, 2006, develop and
39 enforce consumer protection rules for telecommunications

1 service, including mobile telephony services, that achieve all of
2 the following policies:

3 (1) Require every provider of telecommunications services to
4 be responsible for the appropriate handling of confidential
5 consumer information that is protected by a right to privacy that
6 is under its control and to designate an individual or individuals
7 who are accountable for the provider's duty to protect the
8 personal privacy of consumers.

9 (2) Except for those exceptions set forth in subdivision (d) of
10 Section 2891 and Section 2894, require a provider of
11 telecommunications services to collect, use, and disclose to third
12 parties confidential consumer information that is protected by the
13 right to privacy only with the knowledge and prior affirmative
14 written consent of the consumer, and only for the purposes
15 agreed to by the consumer. For purposes of this paragraph, "third
16 party" means any person not employed by the provider of a
17 corporation other than the provider, including an affiliate of the
18 provider.

19 (3) Except for those exceptions set forth in subdivision (d) of
20 Section 2891 and Section 2894, require a provider of
21 telecommunications services to first obtain the consumer's
22 consent before using confidential information for a purpose other
23 than the provision of, or billing for, services performed for the
24 consumer, including marketing a different type of service or
25 other products unrelated to the type of service already being
26 provided to the consumer. In obtaining the consumer's consent,
27 the provider of telecommunications services shall clearly identify
28 the purposes for which the information is collected. The provider
29 of telecommunications services shall maintain a record of every
30 consent obtained pursuant to this paragraph, so long as the
31 provider continues to provide service to the consumer.

32 (4) Require a provider of telecommunications services to
33 provide consumers with reasonable notice of their privacy rights.
34 Whenever a provider of telecommunications services seeks to
35 collect confidential information or to obtain a consumer's consent
36 to use or disclose confidential information, the provider must
37 first provide the consumer, in a clear, accurate, and
38 non-misleading manner, sufficient information to enable the
39 consumer to make an informed decision about whether to provide
40 the information requested or whether to give consent to its use or

1 disclosure. This information shall be provided in writing. This
2 paragraph does not prohibit the provider from providing
3 additional information over and above the requirements of this
4 paragraph, by nonwritten means.

5 (5) Upon request by the consumer, require a provider of
6 telecommunications services to disclose to the consumer the
7 confidential information about the consumer that the provider has
8 in its possession and afford the consumer the opportunity to
9 challenge any inaccuracies. A provider shall exercise due care to
10 correct any inaccuracies brought to the attention of the provider
11 by the consumer. Upon request by the consumer, a provider of
12 telecommunications services shall disclose to the consumer how
13 the consumer's confidential information has been used and every
14 person or entity that was provided with access to the confidential
15 information. The provider may refuse to process unreasonably
16 repetitive requests from the same individual for information.

17 SEC. 2. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the
22 penalty for a crime or infraction, within the meaning of Section
23 17556 of the Government Code, or changes the definition of a
24 crime within the meaning of Section 6 of Article XIII B of the
25 California Constitution.